

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD WILSON, et al.,

Plaintiffs,

vs.

ALLSTATE INSURANCE COMPANY,

Defendant.

Case No. 2:11-cv-00479-GMN-PAL

ORDER

The court conducted a status hearing on October 23, 2012, after receiving the parties' Joint Status Report (Dkt. #21). Christopher Keller appeared on behalf of the Defendant. Counsel for Plaintiff did not appear.

The complaint in this case was filed in state court and removed (Dkt. #1) March 30, 2011. The court entered a Discovery Plan and Scheduling Order (Dkt. #8) on May 13, 2011, which established a September 28, 2011, discovery cutoff and other deadlines consistent with LR 26-1(e). After the expiration of the discovery cutoff, the district judge referred the matter to the undersigned to conduct a settlement conference. *See* Minute Order (Dkt. #11) entered December 6, 2011. The undersigned set this matter for a scheduling conference on December 7, 2011. *See* Order (Dkt. #12). When the parties did not file a joint pretrial order by November 28, 2011, as required by the discovery plan and scheduling order, the undersigned also entered an Order (Dkt. #13) on December 7, 2011, requiring the parties to file a proposed joint pretrial order no later than December 20, 2011. Shortly thereafter, the parties stipulated to dismiss Plaintiffs' sixth and seventh causes of action with prejudice. *See* Stipulation (Dkt. #14).

The parties also stipulated to stay proceedings pending binding arbitration. *See* Stipulation (Dkt. #15). The district judge approved the parties' stipulation for binding arbitration in an Order (Dkt.

#17) entered December 16, 2011. The district judge also granted the parties' stipulation to stay proceedings pending binding arbitration. *See* Order (Dkt. #18). On September 7, 2012, the district judge entered a Minute Order (Dkt. #20) requiring the parties to file a joint status report concerning the status of their binding arbitration proceedings by September 21, 2012. The parties filed a Joint Status Report (Dkt. #21) and the undersigned conducted a hearing on the matter October 23, 2012.

The parties joint status report advised the court that the parties selected Joseph J. Bongiovi as an Arbitrator and scheduled an arbitration for July 24, 2012. However, "subsequent to the supplementation and review of the Plaintiffs' disclosure, the parties determined that they would attempt to settle this matter without the cost and expense of an arbitration." The parties therefore agreed to vacate the arbitration pending settlement negotiations. The parties requested that the court schedule a status conference in thirty to forty-five days after the joint status report was filed. At the status hearing, counsel for Defendant advised the court that the parties had not resolved this matter, and had not re-set this matter for binding arbitration. The parties did sign a binding arbitration agreement, and have engaged in some discovery. However, the Plaintiffs' depositions have not yet been set, and the parties have not discussed re-setting the matter for arbitration.


This matter has been pending on this court's docket for nearly twenty months. The court granted the parties' request to stay proceedings pending binding arbitration nearly eleven months ago. The parties did not proceed with the arbitration, and have not scheduled an arbitration or completed discovery. The court will give the parties sixty days to complete any outstanding discovery, and finalize either a settlement or binding arbitration, and set this matter for status conference in sixty days. If the parties have not resolved this case by binding arbitration or settlement, the stay will be lifted. Additionally, because the discovery cutoff expired September 28, 2011, and the deadline for filing dispositive motions ran October 28, 2012, before the parties applied for and received a stay to conduct binding arbitration, the court will set a deadline for the parties to file a joint pretrial order.

IT IS ORDERED that:

1. The parties shall have until **Friday, December 21, 2012**, in which to complete all outstanding discovery and complete either binding arbitration or settlement negotiations.
2. The stay in this matter is lifted effective **December 21, 2012**.

3. If the parties have not been able to resolve this case through binding arbitration or settlement agreement, the court will set a deadline for filing the joint pretrial order.
4. A status and scheduling conference is set for **Thursday, December 27, 2012, at 1:15 p.m.**

Dated this 23rd day of October, 2012.


Peggy A. Leen
United States Magistrate Judge